

facilitates the rotation of the tamper evident cap, the tamper evident cap including a selectively fracturable parting region which, when fractured, allows at least a portion of the tamper evident cap to be separated and removed from the sealing cap; and

5 a closure retaining section coupled to the sealing cap and advanceable over the shoulder of the container upon the threadable engagement of the sealing cap to the neck thereof;

the parting region being formed within the tamper evident closure such that the fracture of the parting region occurs as a result of the application of torque to the tamper evident closure in the first direction subsequent to the threadable engagement of the sealing cap to the neck.

116 52. (New) The tamper evident closure of Claim 51¹¹⁷ wherein the tamper evident cap is cooperatively engaged to the sealing cap via interengaging serrations which are formed on the tamper evident cap and the sealing cap.

REMARKS

The foregoing Amendment and remarks which follow are responsive to the final Office Action mailed November 17, 2000 in relation to the above-identified patent application. In that Office Action, the Examiner objected to the drawings due to certain ones of the Figures containing improper hatching for a showing of the disclosed plastic material. Additionally, the Examiner

rejected Claims 31-33, 36-38 and 41-48 under 35 U.S.C. § 102(b) as being anticipated by the Merolle reference, and rejected Claims 31, 33-36, 38-41, 43, 45 and 47 under Section 102(b) as being anticipated by the Menke reference. From the substance of the Examiner's response to the arguments as presented in Applicant's Amendment filed July 5, 2000, the Examiner appears to take the position that the limitation recited as the last element in each of the pending independent claims (regarding the size and configuration of the tamper evident closure relative to the container resulting in the engagement of the closure retaining section to the shoulder and fracture of the parting region) is a recitation of intended use, and hence not a structural distinction differentiating the claimed invention from the prior art of record.

By this Amendment, Applicant has cancelled Claims 45-48, and has amended independent Claims 31, 36, 41 and 43 in an effort to more clearly recite the novel and unobvious aspects of the present invention. Additionally, Applicant has added new independent Claims 49-52 into prosecution.

More particularly, Claim 31 has been amended to describe the parting region as being formed within the tamper evident closure such that the fracture of the parting region occurs as a result of the engagement of the closure retaining section to the shoulder upon the movement of the sealing cap away from the shoulder subsequent to the attachment of the sealing cap to the neck of the

container. Similarly, Claim 41 has been amended to describe the parting region as being formed within the tamper evident closure such that fracture of the parting region occurs as a result of the movement of the sealing cap relative to the container subsequent to the attachment of the sealing cap to the neck of the container. Claim 36 has been amended to describe the parting region being formed within the tamper evident closure such that the fracture of the parting region occurs as a result of the engagement of the closure retaining section to the shoulder upon the rotation of the sealing cap in a second direction opposite the first direction subsequent to the threadable engagement of the sealing cap to the neck of the container. Finally, Claim 43 has been amended to describe the parting region as being formed within the tamper evident closure such that the fracture of the parting region occurs as a result of the rotation of the sealing cap in at least one of the first direction and a second direction opposite the first direction subsequent to the threadable engagement of the sealing cap to the neck of the container.

New independent Claims 49 and 51 are similar to amended independent Claims 41 and 43, respectively. However, Claim 49 differs from Claim 41 in that the parting region is described as being formed within the tamper evident closure such that the fracture of the parting region occurs as a result of the application of torque to the tamper evident closure subsequent to

the attachment of the sealing cap to the neck of the container. Similarly, Claim 51 differs from Claim 43 in that the parting region is described as being formed within the tamper evident closure such that the fracture of the parting region occurs as a result of the application of torque to the tamper evident closure in the first direction subsequent to the threadable engagement of the sealing cap to the neck of the container. New Claims 50 and 52 are identical to cancelled Claims 46 and 48, and are dependent upon new independent Claims 49 and 51, respectively.

With regard to the drawing objection advanced by the Examiner, Applicant will attend to the submission of corrected drawings upon an indication of allowable subject matter in the present application.

As is apparent from the foregoing, in each of the amended independent claims (i.e., Claims 31, 36, 41, 43), Applicant has positively recited the structural limitation of the parting region being formed within the tamper evident closure such that the fracture of the parting region occurs as a result of some type of movement of the sealing cap relative to the container. Additionally, in each of independent Claims 49 and 51, Applicant has positively recited the structural limitation of the parting region being formed within the tamper evident closure such that the fracture of the parting region occurs as a result of the application of torque to the tamper evident closure. Applicant

respectfully submits that these structural limitations are not taught nor suggested by either the Merolle or Menke references cited in the final Office Action.

The Merolle reference discloses a closure comprising an inner cap portion and an outer shell portion. The shell portion comprises a top wall 1 having a circular side wall 2 extending therefrom. The cap portion is inserted into the shell portion and itself comprises a top wall 6 having a circular side wall 7 extending therefrom. The side wall 7 is provided with internal screw-threads 8 which are adapted to cooperate with the externally threaded neck of a container such as a bottle. Formed about the side wall 2 of the shell portion is a reflexed portion 12 which is used to maintain a tight grip or engagement between the shell and cap portions.

As further disclosed in the Merolle reference, once the cap portion has been threadably engaged to the neck of the bottle, the lower edge 19 of the side wall 2 of the shell portion is inwardly bent about a bead 17 extending radially outward from the neck to prevent the closure from being removed therefrom. To facilitate the release of the closure so that the cap portion may be unscrewed from the bottle, scores 21, 22 are formed in the side wall 2 of the shell portion so as to define a tear-strip 20. The tear-strip 20 is provided in the shell portion below the cap portion therewithin. The tear out of the tear-strip 20 removes that section of the shell

portion disposed above the tear-strip 20 from the cap portion and the neck of the bottle, thus allowing the cap portion to be unscrewed therefrom. In contrast to the independent claims as currently amended, the Merolle reference includes no teaching or suggestion that the scores 21, 22 of the tear-strip 20 are formed within the side wall 2 of the shell portion such that the fracture thereof is facilitated by the movement of the cap portion relative to the container. Nor does the Merolle reference include any teaching or suggestion regarding the scores 21, 22 of the tear-strip 20 being fractured as a result of the application of torque to the side wall 2 of the shell portion. Rather, as indicated above, the Merolle reference simply teaches the fracture of the scores 21, 22 being facilitated by tearing out the tear-strip 20 by grasping the tongue 23 thereof (column 4, lines 39-54).

The Menke reference discloses a tamper-proof closure seal 10 which is mountable to a uniquely configured finish 11 of a beverage container such a wine or champagne bottle which is closed by a cap 13 threaded on to the upper end of the finish 11. The seal 10 comprises a skirt 15 divided into an upper portion 15a and a lower portion 15b by a weakened zone or separation 16. Formed on the inner periphery of the lower portion 15b of the skirt 15 below the separation 16 are a plurality of inwardly extending ribs 21 which are engageable to corresponding ribs 20 provided on a protrusion 12 of the finish 11. The engagement between the ribs 20, 21 is used

to prevent the rotation of the seal 10 relative to the finish 11. Formed in the upper portion 15a of the skirt 15 is a score line 32 forming a weakened zone which, upon the pulling of a finger grip 31 within the upper portion 15a, facilitates the shearing of the separation 16, and hence the removal of the upper portion 15a from the cap 13 and finish 11 of the bottle. Like the Merolle reference discussed above, the Menke reference is devoid of any teaching or suggestion regarding the score line 32 being formed in the upper portion 15a of the skirt 15 such that the fracture of the score line 32 and resultant shearing of the separation 16 occurs as a result of the movement of the cap 13 relative to the beverage container. Nor does the Menke reference include any teaching or suggestion regarding the score line 32 being fractured and the separation 16 being sheared as a result of the application of torque to the upper portion 15a or the lower portion 15b of the skirt 15. Rather, as indicated above, the shearing of the separation 16 occurs solely as the result of the pulling of the finger grip 31 and fracture of the score line 32 (column 4, lines 10-28).

On the basis of the foregoing, Applicant respectfully submits that the stated grounds of rejection have been overcome, and that Claims 31, 36, 41, 43 and 49-52 are now in condition for allowance, as are Claims 32-35, 37-40, 42 and 44 as being dependent upon respective allowable base claims. Additionally, Applicant

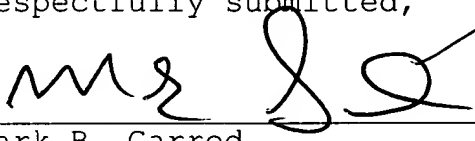
respectfully submits that the present Amendment does not introduce new issues which would require further searching on the part of the Examiner, and therefore respectfully requests that the same be considered and entered by the Examiner. An early Notice of Allowance with respect to Claims 31-44 and 49-52 is therefore respectfully requested.

Attached hereto is a marked-up version of the changes made to the claims by the current Amendment. The attached page is captioned "Version with markings to show changes made".

Respectfully submitted,

Date: 3/8/01

By:


Mark B. Garred
Registration No. 34,823
STETINA BRUNDA GARRED & BRUCKER
75 Enterprise, Suite 250
Aliso Viejo, CA 92656
(949) 855-1246

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Please cancel Claims 45-48.

31. (Amended) A tamper evident closure for a container having a neck defining an open upper end and ~~a~~ an annual shoulder extending about the neck in ~~a~~ close proximity to the open upper end thereof, the tamper evident closure comprising:

a sealing cap attachable to the neck in a manner enclosing the open upper end thereof;

a tamper evident cap cooperatively engaged to the sealing cap and including a selectively fracturable parting region which, when fractured, allows at least a portion of the tamper evident cap to be separated and removed from the sealing cap; and

a closure retaining section coupled to the sealing cap and advancable over the shoulder of the container upon the attachment of the sealing cap to the neck thereof;

the parting region being formed within the tamper evident enclosure ~~being sized and configured relative to the container~~ such that the fracture of the parting region occurs as a result of the engagement of the closure retaining section to the shoulder upon the movement of the sealing cap away from

the shoulder subsequent to the attachment of the sealing cap to the neck ~~results in the engagement of the closure retaining section to the shoulder and the fracture of the parting region.~~

36. (Amended) A tamper evident closure for a container having an externally threaded neck defining an open upper end and an annular shoulder extending about the neck in close proximity to the open upper end thereof, the tamper evident closure comprising:

an internally threaded sealing cap threadably engagable to the neck in a manner enclosing the open upper end thereof, the threadable engagement of the sealing cap to the neck being facilitated by the rotation of the sealing cap in a first direction;

a tamper evident cap cooperatively engaged to the sealing cap in a manner wherein the rotation of the sealing cap facilitates the rotation of the tamper evident cap, the tamper evident cap including a selectively fracturable parting region which, when fractured, allows at least a portion of the tamper evident cap to be separated and removed from the sealing cap; and

a closure retaining section coupled to the sealing cap and advancable over the shoulder of the container upon the threadable engagement of the sealing cap to the neck thereof;

~~the parting region being formed within the tamper evident closure being sized and configured relative to the container such that the fracture of the parting region occurs as a result of the engagement of the closure retaining section to the shoulder upon the rotation of the sealing cap in a second direction opposite the first direction subsequent to the threadable engagement of the sealing cap to the neck results in the engagement of the closure retaining section to the shoulder and the fracture of the parting region.~~

41. (Amended) A tamper evident closure for a container having a neck defining an open upper end and at least one annular shoulder extending about the neck in a close proximity to the open upper end thereof, the tamper evident enclosure comprising;

a sealing cap attachable to the neck in a manner enclosing the open upper end thereof;

a tamper evident cap cooperatively engaged to the sealing cap and including a selectively fracturable parting region which, when fractured, allows at least a portion of the tamper evident cap to be separated and removed from the sealing cap; and

a closure retaining section coupled to the sealing cap and advanceable over the shoulder of the container upon the attachment of the sealing cap to the neck thereof;

~~the parting region being formed within the tamper evident closure being sized and configured relative to the container such that the fracture of the parting region occurs as a result of the movement of the sealing cap away from the shoulder relative to the container subsequent to the attachment of the sealing cap to the neck results in the engagement of the closure retaining section to the shoulder.~~

43. (Amended) A tamper evident closure for a container having an externally threaded neck defining an open upper end and at least one annular shoulder extending about the neck in close proximity to the open upper end thereof, the tamper evident closure comprising:

an internally threaded sealing cap threadably engageable to the neck in a manner enclosing the open upper end thereof, the threadable engagement of the sealing cap to the neck being facilitated by the rotation of the sealing cap in a first direction;

a tamper evident cap cooperatively engaged to the sealing cap in a manner wherein the rotation of the sealing cap facilitates the rotation of the tamper evident cap, the tamper evident cap including a selectively fracturable parting region which, when fractured, allows at least a portion of the tamper evident cap to be separated and removed from the sealing cap; and

a closure retaining section coupled to the sealing cap and advanceable over the shoulder of the container upon the threadable engagement of the sealing cap to the neck thereof;

the parting region being formed within the tamper evident closure ~~being sized and configured relative to the container~~ such that the fracture of the parting region occurs as a result of the rotation of the sealing cap in at least one of the first direction and a second direction opposite the first direction subsequent to the threadable engagement of the sealing cap to the neck ~~results in the engagement of the closure retaining section to the shoulder.~~